

Honorable Barbara J. Rothstein

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

ESTATE OF IAN SIMMERS, by and
through administrator, Donna Berube,

Plaintiff,

v.

KING COUNTY, *et al.*,

Defendants.

No. 2:21-cv-00100-BJR

KING COUNTY AND INDIVIDUAL
DEPUTIES' ANSWER TO PLAINTIFF'S
AMENDED COMPLAINT

JURY DEMAND

King County and the individual Deputies (retired Major McSwain and retired Captains Baxter and Raftis) answer Plaintiff's Amended Complaint, (Dkt. 124), as follows:

Answer to "Complaint"

1. In answer to paragraph 1 of the Amended Complaint, it's admitted that Ian Simmers was convicted of the 1995 murder of Rodney Gochanaur and that Mr. Simmers was 16 years old at the time of the murder. The remaining allegations in paragraph 1 of the Amended Complaint are denied.

2. In answer to paragraph 2 of the Amended Complaint, it's admitted that Mr. Simmers was interviewed by detectives with the Bothell Police Department and the King

1 County Sheriff's Office and that Mr. Simmers confessed to having committed the
2 murder. The remaining allegations in paragraph 2 of the Amended Complaint are
3 denied.

4 3. The allegations in paragraph 3 of the Amended Complaint are denied. In
5 fact, the judge who presided over the criminal case has already rejected these
6 allegations. The judge ruled both that the confession was properly obtained and that
7 Mr. Simmers gave the confession knowingly, intelligently, and voluntarily. Furthermore,
8 his confession included details that only the killer would have known.

9 4. The allegations in paragraph 4 of the Amended Complaint are denied.

10 5. In answer to paragraph 5 of the Amended Complaint, it's admitted that a
11 jury convicted Mr. Simmers of Murder in the 1st Degree. It's further admitted that
12 Mr. Simmers received a lengthy sentence, which was to be served concurrently with the
13 sentence for his convictions for numerous other crimes committed around the same
14 time. The remaining allegations in paragraph 5 of the Amended Complaint are denied.

15 6. The allegations in paragraph 6 of the Amended Complaint are denied. By
16 way of further answer and clarification, it's also specifically denied that DNA testing
17 exonerated Mr. Simmers or played any role in the decision to vacate his conviction.

18 7. The allegations in paragraph 7 of the Amended Complaint are denied.

19 **Answer to "Jurisdiction and Venue"**

20 8. Paragraph 8 of the Amended Complaint contains no allegations requiring
21 any response. By way of further answer and clarification, it's specifically denied that
22 Mr. Simmers' rights were violated in any way.

23 9. In answer to paragraph 9 of the Amended Complaint, it's admitted that the

1 U.S. District Court for the Western District of Washington is a proper venue for this
2 action.

3 **Answer to “The Parties”**

4 10. In answer to paragraph 10 of the Amended Complaint, it’s admitted that
5 Ian Simmers died in July 2023 and that Donna Berube, in her capacity as Personal
6 Representative of the Estate of Ian Simmers, has been substituted as Plaintiff. The
7 remaining allegations in paragraph 10 of the Amended Complaint are denied.

8 11. The allegations in paragraph 11 of the Amended Complaint are admitted.

9 12. In answer to paragraph 12 of the Amended Complaint, it’s admitted that
10 Chief Ericks was Chief of Police for the Bothell Police Department during the
11 investigation and prosecution of Mr. Simmers for the murder of Mr. Gochanaur. King
12 County and the individual Deputies lack information sufficient to form a belief about the
13 truth of the remaining allegations in paragraph 12 of the Amended Complaint.

14 13. In answer to paragraph 13 of the Amended Complaint, it’s denied that any
15 police misconduct occurred during the murder investigation. King County and the
16 individual Deputies lack information sufficient to form a belief about the truth of the
17 remaining allegations in paragraph 13 of the Amended Complaint.

18 14. In answer to paragraph 14 of the Amended Complaint, it’s admitted that at
19 the time of the murder investigation Detective Sergeant Rusk and then-Detective
20 McSwain were members of the King County Police Department, which is now called the
21 King County Sheriff’s Office. It’s denied, however, that Detective Sergeant Rusk is a
22 proper party to this action. He died in 2007, so any potential claims against him or his
23 estate abated years ago, and the Court denied Mr. Simmers’ motion to substitute

1 Detective Sergeant Rusk's estate as a party, (Dkt. 47).

2 15. In answer to paragraph 15 of the Amended Complaint, it's admitted that at
3 the time of the murder investigation Major Beard was a member of the King County
4 Police Department, which is now called the King County Sheriff's Office. It's denied,
5 however, that Major Beard is a proper party to this action. He died in 2016, so any
6 potential claims against him or his estate abated years ago, and the Court denied
7 Mr. Simmers' motion to substitute Major Beard's estate as a party, (Dkt. 47).

8 16. In answer to paragraph 16 of the Amended Complaint, it's admitted that at
9 the time of the murder investigation Major Beard was the Precinct Commander for
10 Precinct 2. King County and the individual Deputies lack information sufficient to form a
11 belief about the truth of the remaining allegations in paragraph 16 of the Amended
12 Complaint.

13 17. In answer to paragraph 17 of the Amended Complaint, it's denied that any
14 police misconduct occurred during the murder investigation. King County and the
15 individual Deputies lack information sufficient to form a belief about the truth of the
16 remaining allegations in paragraph 17 of the Amended Complaint.

17 18. Paragraph 18 of the Amended Complaint contains no allegations requiring
18 any response. To the extent any response is required, King County and the individual
19 Deputies object that Plaintiff's defined terms are vague and confusing as used
20 throughout the Amended Complaint.

21 19. In answer to paragraph 19 of the Amended Complaint, it's admitted that
22 the individual Deputies were acting in the course and scope of their employment at all
23 relevant times. King County and the individual Deputies lack information sufficient to

1 form a belief about the truth of the remaining allegations in paragraph 19 of the
2 Amended Complaint.

3 20. In answer to paragraph 20 of the Amended Complaint, it's admitted that
4 King County is a home charter county operating under the laws of the State of
5 Washington; the City of Bothell is a municipal corporation; the individual Deputies were
6 acting within the course and scope of their employment with King County at all relevant
7 times; and the individual Deputies are entitled to a defense and indemnification by King
8 County. King County and the individual Deputies lack information sufficient to form a
9 belief about the truth of the remaining allegations in paragraph 20 of the Amended
10 Complaint. By way of further answer and clarification, it's specifically denied that
11 Mr. Simmers' rights were violated in any way.

12 **Answer to "The Rodney Gochanaur Murder and Initial Investigation"**

13 21. King County and the individual Deputies lack information sufficient to form
14 a belief about the truth of the allegations in paragraph 21 of the Amended Complaint.

15 22. King County and the individual Deputies lack information sufficient to form
16 a belief about the truth of the allegations in paragraph 22 of the Amended Complaint.

17 23. The averments in paragraph 23 of the Amended Complaint are admitted.

18 24. King County and the individual Deputies lack information sufficient to form
19 a belief about the truth of the allegations in paragraph 24 of the Amended Complaint.

20 25. The averments in paragraph 25 of the Amended Complaint are admitted.

21 26. King County and the individual Deputies lack information sufficient to form
22 a belief about the truth of the allegations in paragraph 26 of the Amended Complaint.

23 27. King County and the individual Deputies lack information sufficient to form

1 a belief about the truth of the allegations in paragraph 27 of the Amended Complaint.

2 28. King County and the individual Deputies lack information sufficient to form
3 a belief about the truth of the allegations in paragraph 28 of the Amended Complaint.

4 29. King County and the individual Deputies lack information sufficient to form
5 a belief about the truth of the allegations in paragraph 29 of the Amended Complaint.

6 **Answer to “The Defendants Coerce . . .”**

7 30. The allegations in paragraph 30 of the Amended Complaint are denied.

8 31. The allegations in paragraph 31 of the Amended Complaint are denied.

9 32. King County and the individual Deputies lack information sufficient to form
10 a belief about the truth of the allegations in paragraph 32 of the Amended Complaint.

11 33. In answer to paragraph 33 of the Amended Complaint, it’s admitted only
12 that Detective Sergeant Rusk assisted Detective Hopkins in interviewing Mr. Simmers
13 about the murder. The remaining allegations in paragraph 33 of the Amended
14 Complaint are denied.

15 34. In answer to paragraph 34 of the Amended Complaint, it’s admitted that
16 Mr. Simmers and another teenager named Jonathan Wyatt were initially arrested by
17 patrol officers for illegally discharging flare guns they had stolen from boats.
18 Mr. Simmers and Mr. Wyatt then confessed to numerous crimes, including vehicle
19 prowls, thefts, malicious mischief, and arson.

20 35. The allegations in paragraph 35 of the Amended Complaint are denied.

21 36. The allegations in paragraph 36 of the Amended Complaint are denied.

22 37. The allegations in paragraph 37 of the Amended Complaint are denied.

23 38. The allegations in paragraph 38 of the Amended Complaint are denied.

39. The allegations in paragraph 39 of the Amended Complaint are denied.

40. The allegations in paragraph 40 of the Amended Complaint are denied.

41. The allegations in paragraph 41 of the Amended Complaint are denied.

42. The allegations in paragraph 42 of the Amended Complaint are denied.

43. The allegations in paragraph 43 of the Amended Complaint are denied.

44. The allegations in paragraph 44 of the Amended Complaint are denied.

45. The allegations in paragraph 45 of the Amended Complaint are denied.

46. The allegations in paragraph 46 of the Amended Complaint are denied.

47. The allegations in paragraph 47 of the Amended Complaint are denied.

48. The allegations in paragraph 48 of the Amended Complaint are denied.

49. The allegations in paragraph 49 of the Amended Complaint are denied.

50. The allegations in paragraph 50 of the Amended Complaint are denied. In fact, Mr. Simmers confessed that he committed the murder.

51. The allegations in paragraph 51 of the Amended Complaint are denied.

52. The allegations in paragraph 52 of the Amended Complaint are denied.

53. The allegations in paragraph 53 of the Amended Complaint are denied.

54. The allegations in paragraph 54 of the Amended Complaint are denied.

55. The allegations in paragraph 55 of the Amended Complaint are denied.

56. The allegations in paragraph 56 of the Amended Complaint are denied.

57. The allegations in paragraph 57 of the Amended Complaint are denied.

58. The allegations in paragraph 58 of the Amended Complaint are denied.

59. The allegations in paragraph 59 of the Amended Complaint are denied.

60. The allegations in paragraph 60 of the Amended Complaint are denied.

61. The allegations in paragraph 61 of the Amended Complaint are denied.

62. The allegations in paragraph 62 of the Amended Complaint are denied.

63. The allegations in paragraph 63 of the Amended Complaint are denied.

64. The allegations in paragraph 64 of the Amended Complaint are denied.

65. The allegations in paragraph 65 of the Amended Complaint are denied.

66. The allegations in paragraph 66 of the Amended Complaint are denied.

67. The allegations in paragraph 67 of the Amended Complaint are denied.

68. The allegations in paragraph 68 of the Amended Complaint are denied.

69. The allegations in paragraph 69 of the Amended Complaint are denied.

70. The allegations in paragraph 70 of the Amended Complaint are denied.

Answer to “The Defendants Fabricate . . .”

71. The allegations in paragraph 71 of the Amended Complaint are denied.

72. The allegations in paragraph 72 of the Amended Complaint are denied.

73. The allegations in paragraph 73 of the Amended Complaint are denied.

74. The allegations in paragraph 74 of the Amended Complaint are denied.

75. The allegations in paragraph 75 of the Amended Complaint are denied.

76. The allegations in paragraph 76 of the Amended Complaint are denied.

77. The allegations in paragraph 77 of the Amended Complaint are denied.

78. The allegations in paragraph 78 of the Amended Complaint are denied.

79. The allegations in paragraph 79 of the Amended Complaint are denied.

80. The allegations in paragraph 80 of the Amended Complaint are denied.

81. The allegations in paragraph 81 of the Amended Complaint are denied.

82. The allegations in paragraph 82 of the Amended Complaint are denied.

83. The allegations in paragraph 83 of the Amended Complaint are denied.

84. The allegations in paragraph 84 of the Amended Complaint are denied.

85. The allegations in paragraph 85 of the Amended Complaint are denied.

86. The allegations in paragraph 86 of the Amended Complaint are denied.

87. The allegations in paragraph 87 of the Amended Complaint are denied.

88. The allegations in paragraph 88 of the Amended Complaint are denied.

89. The allegations in paragraph 89 of the Amended Complaint are denied.

Answer to “Defendants Commit . . .”

90. The allegations in paragraph 90 of the Amended Complaint are denied.

91. The allegations in paragraph 91 of the Amended Complaint are denied.

92. The allegations in paragraph 92 of the Amended Complaint are denied.

93. The allegations in paragraph 93 of the Amended Complaint are denied.

94. The allegations in paragraph 94 of the Amended Complaint are denied.

95. The allegations in paragraph 95 of the Amended Complaint are denied.

Answer to “The Defendants Suppress . . .”

96. The allegations in paragraph 96 of the Amended Complaint are denied.

97. The allegations in paragraph 97 of the Amended Complaint are denied.

98. The allegations in paragraph 98 of the Amended Complaint are denied.

99. The allegations in paragraph 99 of the Amended Complaint are denied.

100. In answer to paragraph 100 of the Amended Complaint, it's admitted that Mr. Simmers was subject to criminal prosecution as an adult, was convicted of Murder in the 1st Degree, and was sentenced to 560 months in prison. The remaining allegations in paragraph 100 of the Amended Complaint are denied.

1 101. In answer to paragraph 101 of the Amended Complaint, it's denied that
2 there were "flaws" in the investigation. King County and the individual Deputies lack
3 information sufficient to form a belief about the truth of the remaining allegations in
4 paragraph 101 of the Amended Complaint.

5 102. In answer to paragraph 102 of the Amended Complaint, it's admitted or
6 averred that the investigation was conducted properly and in conformance with
7 statewide training and standard police procedures. It's also admitted that no officers or
8 deputies were disciplined for anything related to the murder investigation because they
9 did not do anything wrong. King County and the individual Deputies lack information
10 sufficient to form a belief about the truth of the remaining allegations in paragraph 102
11 of the Amended Complaint.

12 103. The allegations in paragraph 103 of the Amended Complaint are denied.

13 104. The allegations in paragraph 104 of the Amended Complaint are denied.

14 105. The allegations in paragraph 105 of the Amended Complaint are denied.

15 106. The allegations in paragraph 106 of the Amended Complaint are denied.

16 Among other things, paragraph 106 of the Amended Complaint fails to fully and
17 accurately state applicable law and facts.

18 107. The allegations in paragraph 107 of the Amended Complaint are denied.

19 Among other things, paragraph 107 of the Amended Complaint fails to fully and
20 accurately state applicable law and facts.

21 108. The allegations in paragraph 108 of the Amended Complaint are denied.

22 109. The allegations in paragraph 109 of the Amended Complaint are denied.

23 110. The allegations in paragraph 110 of the Amended Complaint are denied.

Answer to “Ian’s DNA . . .”

111. The allegations in paragraph 111 of the Amended Complaint are denied.

112. In answer to paragraph 112 of the Amended Complaint, it’s admitted or averred that in 2019 Mr. Simmers filed a motion to vacate his murder conviction. The motion argued the risk of false confessions, especially by juveniles, was better understood in 2019 than it was in 1996 when Mr. Simmers was convicted. The allegation in paragraph 112 of the Amended Complaint that DNA test results exonerated Mr. Simmers is denied.

113. In answer to paragraph 113 of the Amended Complaint, it’s admitted or averred that the State of Washington, represented by the criminal division of the King County Prosecutor’s Office, separately moved to vacate the murder conviction and that the Court granted the motion. The remaining allegations in paragraph 113 of the Amended Complaint are denied.

Answer to “Simmers’s Damages”

114. The allegations in paragraph 114 of the Amended Complaint are denied.

115. The allegations in paragraph 115 of the Amended Complaint are denied.

116. The allegations in paragraph 116 of the Amended Complaint are denied.

117. The allegations in paragraph 117 of the Amended Complaint are denied.

118. The allegations in paragraph 118 of the Amended Complaint are denied.

119. The allegations in paragraph 119 of the Amended Complaint are denied.

120. King County and the individual deputies lack information sufficient to form a belief about the truth of the allegations in paragraph 120 of the Amended Complaint.

121. The allegations in paragraph 121 of the Amended Complaint are denied.

**Answer to “Count 1 . . . Fifth and Fourteenth Amendments . . .
Self-Incrimination, Right to Counsel”**

122. In response to paragraph 122 of the Amended Complaint, King County and the individual Deputies incorporate the corresponding paragraphs of their Answer.

123. In answer to paragraph 123 of the Amended Complaint, it's admitted that at all relevant times the individual Deputies were acting in the course and scope of their employment. The remaining allegations in paragraph 123 of the Amended Complaint are denied.

124. The allegations in paragraph 124 of the Amended Complaint are denied.

125. The allegations in paragraph 125 of the Amended Complaint are denied.

126. The allegations in paragraph 126 of the Amended Complaint are denied.

127. The allegations in paragraph 127 of the Amended Complaint are denied.

128. The allegations in paragraph 128 of the Amended Complaint are denied.

129. In answer to paragraph 129 of the Amended Complaint, it's admitted or averred that the investigation was conducted properly and in conformance with statewide training and standard police procedures. The remaining allegations in paragraph 129 of the Amended Complaint are denied.

Answer to “Count 2 . . . Fourteenth Amendment . . . Due Process”

130. In response to paragraph 130 of the Amended Complaint, King County and the individual Deputies incorporate the corresponding paragraphs of their Answer.

131. In answer to paragraph 131 of the Amended Complaint, it's admitted that at all relevant times the individual Deputies were acting in the course and scope of their employment. The remaining allegations in paragraph 131 of the Amended Complaint

1 are denied.

2 132. The allegations in paragraph 132 of the Amended Complaint are denied.

3 133. The allegations in paragraph 133 of the Amended Complaint are denied.

4 134. The allegations in paragraph 134 of the Amended Complaint are denied.

5 135. The allegations in paragraph 135 of the Amended Complaint are denied.

6 136. In answer to paragraph 136 of the Amended Complaint, it's admitted or
7 averred that the investigation was conducted properly and in conformance with
8 statewide training and standard police procedures. The remaining allegations, if any, in
9 paragraph 136 of the Amended Complaint are denied.

10 **Answer to "Count 3 . . . Sixth and Fourteenth Amendments . . . Fair Trial"**

11 137. In response to paragraph 137 of the Amended Complaint, King County
12 and the individual Deputies incorporate the corresponding paragraphs of their Answer.

13 138. In answer to paragraph 138 of the Amended Complaint, it's admitted that
14 at all relevant times the individual Deputies were acting in the course and scope of their
15 employment. The remaining allegations in paragraph 138 of the Amended Complaint
16 are denied.

17 139. The allegations in paragraph 139 of the Amended Complaint are denied.

18 140. The allegations in paragraph 140 of the Amended Complaint are denied.

19 141. The allegations in paragraph 141 of the Amended Complaint are denied.

20 142. The allegations in paragraph 142 of the Amended Complaint are denied.

21 143. The allegations in paragraph 143 of the Amended Complaint are denied.

22 144. In answer to paragraph 144 of the Amended Complaint, it's admitted or
23 averred that the investigation was conducted properly and in conformance with

1 statewide training and standard police procedures. The remaining allegations, if any, in
2 paragraph 144 of the Amended Complaint are denied.

3 **Answer to “Count 4 . . . Fourth Amendment . . . Detention”**

4 145. In response to paragraph 145 of the Amended Complaint, King County
5 and the individual Deputies incorporate the corresponding paragraphs of their Answer.

6 146. In answer to paragraph 146 of the Amended Complaint, it's admitted that
7 at all relevant times the individual Deputies were acting in the course and scope of their
8 employment. The remaining allegations in paragraph 146 of the Amended Complaint
9 are denied.

10 147. The allegations in paragraph 147 of the Amended Complaint are denied.

11 148. The allegations in paragraph 148 of the Amended Complaint are denied.

12 149. In answer to paragraph 149 of the Amended Complaint, it's admitted that
13 in 2019 Mr. Simmers and the State of Washington moved to vacate the murder
14 conviction and that the Court granted the motion. The remaining allegations in
15 paragraph 149 of the Amended Complaint are denied.

16 150. The allegations in paragraph 150 of the Amended Complaint are denied.

17 151. The allegations in paragraph 151 of the Amended Complaint are denied.

18 152. In answer to paragraph 152 of the Amended Complaint, it's admitted or
19 averred that the investigation was conducted properly and in conformance with
20 statewide training and standard police procedures. The remaining allegations, if any, in
21 paragraph 152 of the Amended Complaint are denied.

22 **Answer to “Count 5 – Federal Law Failure to Intervene”**

23 153. In response to paragraph 153 of the Amended Complaint, King County

1 and the individual Deputies incorporate the corresponding paragraphs of their Answer.

2 154. The allegations in paragraph 154 of the Amended Complaint are denied.

3 155. The allegations in paragraph 155 of the Amended Complaint are denied.

4 156. The allegations in paragraph 156 of the Amended Complaint are denied.

5 157. In answer to paragraph 157 of the Amended Complaint, it's admitted or
6 averred that the investigation was conducted properly and in conformance with
7 statewide training and standard police procedures. The remaining allegations, if any, in
8 paragraph 157 of the Amended Complaint are denied.

9 **Answer to "Count 6 . . . Conspiracy to Deprive Constitutional Rights"**

10 158. In response to paragraph 158 of the Amended Complaint, King County
11 and the individual Deputies incorporate the corresponding paragraphs of their Answer.

12 159. In answer to paragraph 159 of the Amended Complaint, it's admitted that
13 at all relevant times the individual Deputies were acting in the course and scope of their
14 employment. The remaining allegations in paragraph 159 of the Amended Complaint
15 are denied.

16 160. The allegations in paragraph 160 of the Amended Complaint are denied.

17 161. The allegations in paragraph 161 of the Amended Complaint are denied.

18 162. The allegations in paragraph 162 of the Amended Complaint are denied.

19 163. The allegations in paragraph 163 of the Amended Complaint are denied.

20 164. The allegations in paragraph 164 of the Amended Complaint are denied.

21 165. In answer to paragraph 165 of the Amended Complaint, it's admitted or
22 averred that the investigation was conducted properly and in conformance with
23 statewide training and standard police procedures. The remaining allegations, if any, in

paragraph 165 of the Amended Complaint are denied.

Answer to “Count 7 – Federal Law . . . Municipal Liability”

166. In response to paragraph 166 of the Amended Complaint, King County and the individual Deputies incorporate the corresponding paragraphs of their Answer.

167. The allegations in paragraph 167 of the Amended Complaint are denied.

168. In answer to paragraph 168 of the Amended Complaint, it's admitted or averred that the investigation was conducted properly and in conformance with statewide training and standard police procedures. The remaining allegations, if any, in paragraph 168 of the Amended Complaint are denied.

169. The allegations in paragraph 169 of the Amended Complaint are denied.

170. The allegations in paragraph 170 of the Amended Complaint are denied.

171. The allegations in paragraph 171 of the Amended Complaint are denied.

172. The allegations in paragraph 172 of the Amended Complaint are denied.

173. The allegations in paragraph 173 of the Amended Complaint are denied.

174. The allegations in paragraph 174 of the Amended Complaint are denied.

175. The allegations in paragraph 175 of the Amended Complaint are denied.

176. The allegations in paragraph 176 of the Amended Complaint are denied.

177. The allegations in paragraph 177 of the Amended Complaint are denied.

178. The allegations in paragraph 178 of the Amended Complaint are denied.

179. The allegations in paragraph 179 of the Amended Complaint are denied.

180. The allegations in paragraph 180 of the Amended Complaint are denied.

181. The allegations in paragraph 181 of the Amended Complaint are denied.

Answer to “Count 8 . . . Malicious Prosecution”

182. In response to paragraph 182 of the Amended Complaint, King County and the individual Deputies incorporate the corresponding paragraphs of their Answer.

183. The allegations in paragraph 183 of the Amended Complaint are denied.

184. The allegations in paragraph 184 of the Amended Complaint are denied.

185. The allegations in paragraph 185 of the Amended Complaint are denied.

186. In answer to paragraph 186 of the Amended Complaint, it’s admitted that in 2019 Mr. Simmers and the State of Washington moved to vacate the murder conviction and that the Court granted the motion. The remaining allegations in paragraph 186 of the Amended Complaint are denied.

187. The allegations in paragraph 187 of the Amended Complaint are denied.

188. The allegations in paragraph 188 of the Amended Complaint are denied.

Answer to “Count 9 . . . Outrage”

189. In response to paragraph 189 of the Amended Complaint, King County and the individual Deputies incorporate the corresponding paragraphs of their Answer.

190. The allegations in paragraph 190 of the Amended Complaint are denied. Additionally, Plaintiff’s outrage claim was already dismissed by the Court. (Dkt. 94.)

191. The allegations in paragraph 191 of the Amended Complaint are denied. Additionally, Plaintiff’s outrage claim was already dismissed by the Court. (Dkt. 94.)

192. The allegations in paragraph 192 of the Amended Complaint are denied. Additionally, Plaintiff’s outrage claim was already dismissed by the Court. (Dkt. 94.)

193. The allegations in paragraph 193 of the Amended Complaint are denied. Additionally, Plaintiff’s outrage claim was already dismissed by the Court. (Dkt. 94.)

Answer to “Count 10 – State Law Civil Conspiracy”

194. In response to paragraph 194 of the Amended Complaint, King County and the individual Deputies incorporate the corresponding paragraphs of their Answer.

195. The allegations in paragraph 195 of the Amended Complaint are denied.

196. The allegations in paragraph 196 of the Amended Complaint are denied.

197. The allegations in paragraph 197 of the Amended Complaint are denied.

198. The allegations in paragraph 198 of the Amended Complaint are denied.

Answer to “Count 11 . . . Respondeat Superior”

199. In response to paragraph 199 of the Amended Complaint, King County and the individual Deputies incorporate the corresponding paragraphs of their Answer.

200. In answer to paragraph 200 of the Amended Complaint, it's admitted that at all relevant times the individual Deputies were acting in the course and scope of their employment with King County. The remaining allegations, if any, regarding King County and the individual Deputies in paragraph 200 of the Amended Complaint are denied.

201. In answer to paragraph 201 of the Amended Complaint, it's admitted that at all relevant times the individual Deputies were acting in the course and scope of their employment with King County. The remaining allegations, if any, regarding King County and the individual Deputies in paragraph 201 of the Amended Complaint are denied.

Answer to “Count 12 – State Law Negligence”

202. In response to paragraph 202 of the Amended Complaint, King County and the individual Deputies incorporate the corresponding paragraphs of their Answer.

203. It's denied that paragraph 203 of the Amended Complaint fully and accurately states applicable law. Additionally, Plaintiff's negligence claim was already

1 dismissed by the Court. (Dkt. 94.)

2 204. The allegations in paragraph 204 of the Amended Complaint are denied.
3 Additionally, Plaintiff's negligence claim was already dismissed by the Court. (Dkt. 94.)

4 205. The allegations in paragraph 205 of the Amended Complaint are denied.
5 Additionally, Plaintiff's negligence claim was already dismissed by the Court. (Dkt. 94.)

6 206. The allegations in paragraph 206 of the Amended Complaint are denied.
7 Additionally, Plaintiff's negligence claim was already dismissed by the Court. (Dkt. 94.)

8 207. The allegations in paragraph 207 of the Amended Complaint are denied.
9 Additionally, Plaintiff's negligence claim was already dismissed by the Court. (Dkt. 94.)

10 **Answer to "Count 13 – State Law Indemnification"**

11 208. In response to paragraph 208 of the Amended Complaint, King County
12 and the individual Deputies incorporate the corresponding paragraphs of their Answer.

13 209. In answer to paragraph 209, it's admitted only that the individual Deputies
14 acted within the course and scope of their employment with King County at all relevant
15 times. The remaining allegations, if any, regarding King County and the individual
16 Deputies in paragraph 209 of the Amended Complaint are denied.

17 210. In answer to paragraph 210, it's admitted only that the individual Deputies
18 are entitled to a defense and indemnification by King County. The remaining allegations,
19 if any, regarding King County and the individual Deputies in paragraph 210 of the
20 Amended Complaint are denied.

21 **DENIAL OF PRAYER FOR RELIEF**

22 It's denied that Plaintiff is entitled to any of the relief requested in the Amended
23 Complaint.

DENIAL OF LIABILITY

Except as specifically admitted above, Plaintiff's allegations are denied. Any liability to Plaintiff is denied.

AFFIRMATIVE DEFENSES

Without conceding that they have the burden of proof on any issue, King County and the individual Deputies assert the following additional defenses:

1. The Amended Complaint fails to state a claim upon which relief can be granted.

2. Plaintiff's alleged injuries and damages were caused by the comparative fault of Mr. Simmers, other parties, or unknown nonparties, and RCW 4.22.070 applies.

3. Plaintiff's alleged damages were caused by Mr. Simmers' own wanton, willful, intentional, and criminal misconduct.

4. Mr. Simmers assumed the risk of harm.

5. Mr. Simmers might have failed to mitigate his alleged injuries and damages.

6. The individual Deputies' actions were reasonable and justified under the circumstances.

7. The individual Deputies' actions were privileged and, therefore, cannot be the basis for liability.

8. The individual Deputies have qualified immunity under both federal law and state law.

9. King County has prosecutorial immunity and judicial immunity.

10. Pursuant to *Heck v. Humphrey*, 512 U.S. 477 (1994), Plaintiff's claims are

1 barred because they imply the invalidity of Mr. Simmers' criminal convictions.

2 11. Plaintiff's claims are precluded by the doctrine of judicial estoppel.

3 12. Plaintiff's claims are precluded by the doctrine of collateral estoppel.

4 13. Plaintiff's claims are barred by the statute of limitations.

5 14. Mr. Simmers has unclean hands.

6 15. Plaintiff's claims are barred by the doctrine of laches.

7 16. Plaintiff's claims were waived by the filing of an action under Washington's
8 Wrongly Convicted Persons Act, *Simmers v. State of Washington*, King County Superior
9 Court, No. 22-2-02832-7 SEA.

10 17. Plaintiff lacks standing to bring any claim related to the interrogation of
11 Jonathan Wyatt.

12 18. Major Beard and Detective Sergeant Rusk are deceased. The claims
13 against them or their estates abated years ago and are barred by RCW 11.40.051 and
14 42 U.S.C. § 1988.

15 King County and the individual Deputies reserve the right to amend their Answer
16 to assert additional affirmative defenses revealed in the course of investigation and
17 discovery.

18 JURY DEMAND

19 King County and the individual Deputies demand that all issues be tried to a jury.

20 PRAYER FOR RELIEF

21 King County and the individual Deputies pray for relief as follows:

22 1. Dismissal of Plaintiff's action with prejudice;

23 2. Judgment in favor of King County and the individual Deputies;

1 3. An award to them of their attorney's fees and costs, pursuant to 42 U.S.C.
2 § 1988, RCW 4.84.185, and other applicable law; and

3 4. Any other relief the Court deems just and equitable.

4 DATED: October 12, 2023

5 SEAMARK LAW GROUP PLLC
6 Attorneys for King County, Major
 McSwain, and Captains Baxter and Raftis

7 s/Geoff Grindeland

8 Geoff Grindeland, WSBA No. 35798
9 Nikki Carsley, WSBA No. 46650
10 Seamark Law Group PLLC
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 nikki@seamarklaw.com

CERTIFICATE OF SERVICE

I certify that on the date below I electronically filed the foregoing document with the Clerk of Court using the CM/ECF system, which will send notification of such filing to the following:

Attorney for Plaintiff
David Owens

Attorneys for Bothell Defendants
Shannon Ragonesi
Paul Triesch

I further certify that on the date below I mailed by U.S. Postal Service a copy of the foregoing document to the following non-CM/ECF participants:

N/A

DATED: October 12, 2023

s/Geoff Grindeland
Geoff Grindeland